

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Parsons, et al. : Docket: #0011  
Application No.: 10/811,677 : Examiner: Eng, David Y  
Filing Date: March 29, 2004 : Art Unit: 2155  
Title: **Method for a Facilitator to Assist an Entrepreneur in Creating an Internet Business**

**APPEAL BRIEF**

**I. Real Party in Interest**

The Go Daddy Group, Inc.

**II. Related Appeals and Interferences**

There are no related appeals or interferences.

**III. Status of Claims**

Claims 1-21 are pending and stand rejected. The rejection of claims 1-21 is being appealed.

**IV. Status of Amendments**

None

**V. Summary of Claimed Subject Matter**

The claimed subject matter of independent claims 1, 6, 13, 20 and 21 provides methods for a Facilitator to assist an Entrepreneur in creating an Internet business. The Facilitator creates An Entrepreneur's web site using different combinations of processes provided at a Facilitator's web site. Tremendous synergies may be achieved and serious pitfalls avoided over the prior art in performing these process by receiving overall guidance and assistance from one web site, i.e. a Facilitator's web site. The claimed processes are illustrated in Figs. 2, 3, 4, 5a, 5b, and 5c and may be performed on the system (not currently claimed) illustrated in Fig. 1.

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Independent claim 1 is directed to a method for a Facilitator (Page 15, paragraph 1) to assist an Entrepreneur in creating an Internet business, comprising the steps of: creating a Facilitator's web site on the Internet accessible to Entrepreneurs (Step 200 in Fig. 2 and Fig. 3, specification page 4, paragraphs 3 and 4 and page 8, last paragraph); registering a requested available domain name having a label and a top-level domain on the Facilitator's web site in response to an Entrepreneur's request for the domain name (Steps 201 and 202 in Fig. 2, page 15 paragraph 3 to page 16 first full paragraph); assisting the Entrepreneur in designing an Entrepreneur's web site by providing web site design services on the Facilitator's web site (Step 203 in Fig. 2 and Step 300 in Fig. 3, page 16 second full paragraph to page 17 second full paragraph); and offering hosting services on the Facilitator's web site for the Entrepreneur's web site at an Internet protocol address associated with the registered domain name (Step 205 in Fig. 1 and Figs. 5a-c, page 10, first full paragraph).

Independent claim 6 is directed to a method for a Facilitator (Page 15, paragraph 1) to assist an Entrepreneur in creating an Internet business, comprising the steps of: creating a Facilitator's web site on the Internet accessible to Entrepreneurs (Step 200 in Fig. 2 and Fig. 3, page 4 third and fourth paragraphs and page 8 last paragraph); registering a requested available domain name having a label and a top-level domain in response to the Entrepreneur's request for the domain name on the Facilitator's web site (Steps 201 and 202 in Fig. 2, page 15 paragraph 3 to page 16 first full paragraph); offering hosting services on the Facilitator's web site for the Entrepreneur's web site at an Internet protocol address associated with the registered domain name (Step 205 in Fig. 1 and Figs. 5a-c, page 10 first full paragraph and page 19 second full paragraph); the Facilitator's web site assisting the Entrepreneur in trademarking the domain name or the label with the United States Patent and Trademark Office (Step 207 in Fig. 2, Steps 500 and 501 in Fig. 5a, Steps 502 and 503 in Fig. 5b, Steps 502, 504, 505 and 506 in Fig. 5c, page 16 first full paragraph and page 21 first, second and third full paragraphs); and the Facilitator's web site assisting the Entrepreneur in copyrighting at least some of the content of the Entrepreneur's web site with the United States Copyright Office (Step 206 in Fig. 2, all of Fig. 4 and page 19 last partial paragraph to page 20 second full paragraph).

Independent claim 13 is directed to a method for a Facilitator (Page 15, paragraph 1) to assist an Entrepreneur in creating an Internet business, comprising the steps of: creating a Facilitator's web site on the Internet accessible to Entrepreneurs (Step 200 in Figs. 2 and 3, page

4 third and fourth paragraphs and page 8 last paragraph); assisting an Entrepreneur in designing an Entrepreneur's web site by providing web site design services via the Facilitator's web site (Step 203 in Fig. 2 and Step 300 in Fig. 3, page 16 second full paragraph to page 17 second full paragraph); offering hosting services on the Facilitator's web site for the Entrepreneur's web site at an Internet protocol address associated with a domain name having a label and a top-level domain registered to the Entrepreneur (Step 205 in Fig. 1 and Figs. 5a-c, page 10 first full paragraph and page 19 second full paragraph); assisting the Entrepreneur from the Facilitator's web site in trademarking the domain name or the label with the United States Patent and Trademark Office (Step 207 in Fig. 2, Steps 500 and 501 in Fig. 5a, Steps 502 and 503 in Fig. 5b, Steps 502, 504, 505 and 506 in Fig. 5c, page 16 first full paragraph and page 21 first, second and third full paragraphs); and assisting the Entrepreneur from the Facilitator's web site in copyrighting at least some of the content of the Entrepreneur's web site with the United States Copyright Office (Step 206 in Fig. 2, all of Fig. 4 and page 19 last partial paragraph to page 20 second full paragraph).

Independent Claim 20 is directed to a method for a Facilitator (Page 15, paragraph 1) to assist an Entrepreneur in creating an Internet business, comprising the steps of: creating a Facilitator's web site on the Internet accessible to Entrepreneurs (Step 200 in Figs. 2 and 3, page 4 third and fourth paragraphs and page 8 last paragraph); registering a requested available domain name having a label and a top-level domain on the Facilitator's web site in response to an Entrepreneur's request for the domain name (Steps 201 and 202 in Fig. 2, page 15 paragraph 3 to page 16 first full paragraph); assisting the Entrepreneur in designing an Entrepreneur's web site by providing web site design services on the Facilitator's web site (Step 203 in Fig. 2 and Step 300 in Fig. 3, page 16 second full paragraph to page 17 second full paragraph); and assisting the Entrepreneur in designing a store front web site from the Facilitator's web site, wherein the Entrepreneur's web site and the store front web site share a substantially similar layout (Step 204 in Fig. 2, Steps 300, 301, 302 and 303 in Fig. 3, page 18 second full paragraph to page 19 first full paragraph).

Independent claim 21 is directed to a method for a Facilitator (Page 15, paragraph 1) to assist an Entrepreneur in creating an Internet business, comprising the steps of: creating a Facilitator's web site on the Internet accessible to Entrepreneurs (Step 200 in Figs. 2 and 3, page 4 third and fourth paragraphs and page 8 last paragraph); receiving information regarding an

Entrepreneur that has accessed the Facilitator's web site (Page 15 second paragraph); storing the information regarding the Entrepreneur in a memory location accessible by the Facilitator's web site (Page 15 second paragraph); registering a requested available domain name having a label and a top-level domain in response to the Entrepreneur's request for the domain name on the Facilitator's web site using at least some of the stored information regarding the Entrepreneur (Steps 201 and 202 in Fig. 2, page 15 paragraph 3 to page 16 first full paragraph); providing hosting services on the Facilitator's web site for the Entrepreneur's web site at an Internet protocol address associated with the registered domain name using at least some of the stored information regarding the Entrepreneur (Step 205 in Fig. 1 and Figs. 5a-c, page 10 first full paragraph and page 19 second full paragraph); assisting the Entrepreneur in trademarking the domain name or the label with the United States Patent and Trademark Office from the Facilitator's web site using at least some of the stored information regarding the Entrepreneur (Step 207 in Fig. 2, Steps 500 and 501 in Fig. 5a, Steps 502 and 503 in Fig. 5b, Steps 502, 504, 505 and 506 in Fig. 5c, page 16 first full paragraph and page 21 first, second and third full paragraphs); and assisting the Entrepreneur in copyrighting at least some of the content of the Entrepreneur's web site from the Facilitator's web site with the United States Copyright Office using at least some of the stored information regarding the Entrepreneur (Step 206 in Fig. 2, all of Fig. 4 and page 19 last partial paragraph to page 20 second full paragraph).

## **VI. Grounds of Rejection to be Reviewed on Appeal**

A. Whether claims 1-21 are unpatentable under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

B. Whether claims 1-21 are unpatentable under 35 U.S.C. 103(a) as being unpatentable over Jacobs (USP 7,219,327).

## VII. Argument

### A. Claim Rejection – 35 USC § 101

#### Claims 1-21

The Examiner on page 2 of the final Office Action mailed April 22, 2008 states “[c]laims 1-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.” Appellant respectfully appeals this rejection.

The Examiner further states on page 2 “[t]he method as recited in the claims is a mental process of doing business by a human being. The steps as recited are chain of thoughts of an idea of a human being to start a business. . . The steps as recited in the claims are not steps for creating a web site by a computer process but mere [sic] a mental process of a human being.” (underling added)

Appellant respectfully disagrees with the Examiner’s characterization of claims 1-21 because claims 1-21 include real world processes and instrumentalities that extend beyond mere mental processes and chains of thought. As specific examples, one cannot create a web site on the Internet accessible to Entrepreneurs (element A in every independent claim), register an available domain name in response to an Entrepreneur’s request (element B in independent claims 1, 6 and 20 and element D in independent claim 21) or offer hosting services (element D in independent claim 1, element C in independent claims 6 and 13 and element E in independent claim 21) purely as a mental process or chain of thoughts. These processes are described in the specification as being performed by and on real world instrumentalities such as computers and the Internet.

The Examiner also states on page 2 “[f]or example, the step of creating a Facilitator’s web site is a human step because a human uses a computer to create a Facilitator’s web site.” (underlining added) From this statement, it appears the Examiner is also arguing that a human step destroys statutory subject matter, even while admitting that the human step includes the human using a computer. The Examiner does not provide any authority for this “human step” rule and Appellant respectfully submits that inventions do not have to be fully automated, i.e. without any human steps, to be statutory subject matter.

Thus, claims 1-21 are statutory subject matter (processes as permitted under 35 USC 101) because they include real world processes and instrumentalities (such as creating a web site on the Internet accessible to Entrepreneurs, registering an available domain name in response to an Entrepreneur's request and offering hosting services) that cannot be performed in one's head and are thus more than mere mental processes as asserted by the Examiner. Appellant respectfully requests the reversal of this rejection.

**B. Claim Rejections – 35 USC § 103**

**Claims 1, 6, 13, 20 and 21**

The Examiner states in the first paragraph on page 3 of the first Office Action mailed October 2, 2007:

See claim 1 in Jacobs. Jacobs teaches a method for creating a web site. In Jacobs, the created web site is not for assisting an entrepreneur in creating an Internet business. Steps B, C and D are essential steps for a business conducted via a web site (Internet business). If the created web site is for assisting an Entrepreneur in creating an Internet business, it would have been obvious to include steps B-D in the created web site because they are inherent steps (essential steps, without them Internet business is impossible). (emphasis added)

The Examiner's rationale for obviousness is in error because the Examiner is relying on appellant's specification (as opposed to teachings in Jacobs) in determining that claimed steps B, C and D are essential or inherent. As seen above, the Examiner admits that "[i]n Jacobs, the created web site is not for assisting an entrepreneur in creating an Internet business." (emphasis added) On the other hand, the process of creating a web site for assisting an entrepreneur in creating an Internet business is taught and claimed throughout appellant's specification. To reiterate, it is appellant's specification, and not Jacobs, that teaches this claimed process for creating an Internet business.

Nevertheless, the Examiner uses the teaching of an Internet business (without ever stating where in Jacob this is disclosed and, in fact, explicitly stating it is not taught by Jacobs) to argue that "[s]teps B, C and D are essential steps for a business conducted via a web site (Internet business)." The Examiner cannot logically use teachings from appellant's specification to conclude steps B, C and D are disclosed in Jacobs as essential steps. The Examiner has failed to cite teachings from Jacobs that would make steps B, C and D essential steps to Jacobs.

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The Examiner repeats the same mistake by stating “[i]f the created web site is for assisting an Entrepreneur in creating an Internet business, it would have been obvious to include steps B-D in the created web site because they are inherent steps (essential steps, without them Internet business is impossible).” The problem is that the created web site in Jacobs is not for assisting an Entrepreneur in creating an Internet business as admitted by the Examiner. Again, the Examiner cannot logically use teachings from appellant’s specification (without ever stating where in Jacobs this is also taught) to conclude steps B, C and D are disclosed in Jacobs as inherent steps. Once again, the Examiner has failed to cite teachings from Jacobs that would make steps B, C and D inherent steps to Jacobs.

In summation, because steps B, C and D in claim 1, and the corresponding, as well as the unique, steps in claims 6, 13, 20 and 21 have never been shown to be essential or inherently in Jacobs (and are certainly not explicitly taught by Jacobs), appellant requests the reversal of the 35 USC § 103 rejection to claims 1, 6, 13, 20 and 21.

**Claims 2-5, 7-12 and 14-19**

Dependent claims 2-5, 7-12 and 14-19 all depend from independent claims that are believed to be allowable as discussed above. Thus, claims 2-5, 7-12 and 14-19 should also be allowed.

In addition, the Examiner in the second paragraph on page 3 of the first Office Action mailed October 2, 2007 states in regards to claims 2-5, 7-12 and 14-19 that “[i]t would have been obvious to a person of ordinary skill in the art to incorporate the services in the created web site which are needed to establish the specific type of Internet business the entrepreneur selected to establish so that he is able to start a business.” Even if this is true, it does not accurately characterize the limitations in the claims. The limitations in claims 2-5, 7-12, and 14-19 make it clear that a Facilitator’s web site (and not a plurality of different web sites as is known in the prior art) performs all of the claimed steps (such as steps B), C) and D) in claim 1) that assist an Entrepreneur in creating an Internet business. Using a single Facilitator’s web site to provide the various claimed combination of steps is not taught or made obvious by Jacobs. This is particularly true since the Examiner has admitted that while “Jacobs teaches a method for

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creating a web site . . . the created web site is not for assisting an entrepreneur in creating an Internet business.”

**CONCLUSION**

Appellant respectfully submits that claims 1-21 cover statutory subject matter and Jacobs fails to make claims 1-21 obvious. Appellant thus requests: 1) the reversal of the 35 USC § 101 rejection; and 2) the reversal of the 35 USC § 103 rejections. Any questions or suggestions regarding this Appeal Brief should be directed to the undersigned attorney for appellant at the telephone number or email address listed below.

Respectfully submitted,

**The Go Daddy Group, Inc.**

Date: 9/17/2008

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## **VIII. Claims Appendix**

1. A method for a Facilitator to assist an Entrepreneur in creating an Internet business, comprising the steps of:
  - A) creating a Facilitator's web site on the Internet accessible to Entrepreneurs;
  - B) registering a requested available domain name having a label and a top-level domain on the Facilitator's web site in response to an Entrepreneur's request for the domain name;
  - C) assisting the Entrepreneur in designing an Entrepreneur's web site by providing web site design services on the Facilitator's web site; and
  - D) offering hosting services on the Facilitator's web site for the Entrepreneur's web site at an Internet protocol address associated with the registered domain name.
2. The method of claim 1, further comprising the step of the Facilitator's web site assisting the Entrepreneur in copyrighting at least some of the content of the Entrepreneur's web site with the United States Copyright Office.
3. The method of claim 1, further comprising the step of the Facilitator's web site assisting the Entrepreneur in trademarking the Entrepreneur's registered domain name or the label with the United States Patent and Trademark Office.
4. The method of claim 1, further comprising the step of the Facilitator's web site assisting the Entrepreneur in selecting hosting options appropriate for an anticipated business volume of the Entrepreneur's web site.

5. The method of claim 1, further comprising the step of the Facilitator's web site submitting the Entrepreneur's web site to one or more search engines.
6. A method for a Facilitator to assist an Entrepreneur in creating an Internet business, comprising the steps of:
  - A) creating a Facilitator's web site on the Internet accessible to Entrepreneurs;
  - B) registering a requested available domain name having a label and a top-level domain in response to the Entrepreneur's request for the domain name on the Facilitator's web site;
  - C) offering hosting services on the Facilitator's web site for the Entrepreneur's web site at an Internet protocol address associated with the registered domain name;
  - D) the Facilitator's web site assisting the Entrepreneur in trademarking the domain name or the label with the United States Patent and Trademark Office; and
  - E) the Facilitator's web site assisting the Entrepreneur in copyrighting at least some of the content of the Entrepreneur's web site with the United States Copyright Office.
7. The method of claim 6, wherein the assisting the Entrepreneur in trademarking the domain name or the label includes the step of linking the Entrepreneur with the official web site for the United States Patent and Trademark Office from the Facilitator's web site.

8. The method of claim 6, wherein the assisting the Entrepreneur in trademarking the domain name or the label from the Facilitator's web site includes the steps of receiving trademark information from the Entrepreneur, creating hardcopy trademark forms containing the trademark information, transmitting the hardcopy trademark forms to the Entrepreneur and instructing the Entrepreneur in the procedure for submitting the hardcopy trademark forms to the United States Patent and Trademark Office.

9. The method of claim 6, wherein the assisting the Entrepreneur in trademarking the domain name or the label from the Facilitator's web site includes the steps of receiving trademark information from the Entrepreneur, creating electronic trademark forms containing the trademark information and electronically submitting the electronic trademark forms to the United States Patent and Trademark Office on behalf of the Entrepreneur.

10. The method of claim 6, wherein the assisting the Entrepreneur in copyrighting at least some of the content of the web site includes the step of linking the Entrepreneur with the official web site for the United States Copyright Office from the Facilitator's web site.

11. The method of claim 6, wherein the assisting the Entrepreneur in copyrighting at least some of the web site from the Facilitator's web site includes the steps of receiving copyright information from the Entrepreneur, creating hardcopy copyright forms containing the copyright information, transmitting the hardcopy copyright forms to the Entrepreneur and instructing the Entrepreneur in the procedure for submitting the hardcopy trademark forms to the United States Copyright Office.

12. The method of claim 6, wherein the assisting the Entrepreneur in copyrighting at least some of the web site from the Facilitator's web site includes the steps of receiving copyright information from the Entrepreneur, creating electronic copyright forms containing the copyright information and electronically submitting the copyright forms to the United States Copyright Office.

13. A method for a Facilitator to assist an Entrepreneur in creating an Internet business, comprising the steps of:

- A) creating a Facilitator's web site on the Internet accessible to Entrepreneurs;
- B) assisting an Entrepreneur in designing an Entrepreneur's web site by providing web site design services via the Facilitator's web site;
- C) offering hosting services on the Facilitator's web site for the Entrepreneur's web site at an Internet protocol address associated with a domain name having a label and a top-level domain registered to the Entrepreneur;
- D) assisting the Entrepreneur from the Facilitator's web site in trademarking the domain name or the label with the United States Patent and Trademark Office; and
- E) assisting the Entrepreneur from the Facilitator's web site in copyrighting at least some of the content of the Entrepreneur's web site with the United States Copyright Office.

14. The method of claim 13, wherein the assisting the Entrepreneur in trademarking the domain name or the label from the Facilitator's web site includes the step of linking the Entrepreneur with the official web site for the United States Patent and Trademark Office.

15. The method of claim 13, wherein the assisting the Entrepreneur in trademarking the domain name or the label from the Facilitator's web site includes the steps of receiving trademark information from the Entrepreneur, creating hardcopy trademark forms containing the trademark information, transmitting the hardcopy trademark forms to the Entrepreneur and instructing the Entrepreneur in the procedure for submitting the hardcopy trademark forms to the United States Patent and Trademark Office.

16. The method of claim 13, wherein the assisting the Entrepreneur in trademarking the domain name or the label from the Facilitator's web site includes the steps of receiving trademark information from the Entrepreneur, creating electronic trademark forms containing the trademark information and electronically submitting the electronic trademark forms to the United States Patent and Trademark Office.

17. The method of claim 13, wherein the assisting the Entrepreneur in copyrighting at least some of the content of the web site from the Facilitator's web site includes the step of linking the Entrepreneur with the official web site for the United States Copyright Office.

18. The method of claim 13, wherein the assisting the Entrepreneur in copyrighting at least some of the content of the web site from the Facilitator's web site includes the steps of receiving copyright information from the Entrepreneur, creating hardcopy copyright forms containing the copyright information, transmitting the hardcopy copyright forms to the Entrepreneur and instructing the Entrepreneur in the procedure for submitting the hardcopy copyright forms to the United States Copyright Office.

19. The method of claim 13, wherein the assisting the Entrepreneur in copyrighting at least some of the content of the web site from the Facilitator's web site includes the steps of receiving copyright information from the Entrepreneur, creating electronic copyright forms containing the copyright information and electronically submitting the copyright forms to the United States Copyright Office.

20. A method for a Facilitator to assist an Entrepreneur in creating an Internet business, comprising the steps of:

- A) creating a Facilitator's web site on the Internet accessible to Entrepreneurs;
- B) registering a requested available domain name having a label and a top-level domain on the Facilitator's web site in response to an Entrepreneur's request for the domain name;
- C) assisting the Entrepreneur in designing an Entrepreneur's web site by providing web site design services on the Facilitator's web site; and
- D) assisting the Entrepreneur in designing a store front web site from the Facilitator's web site, wherein the Entrepreneur's web site and the store front web site share a substantially similar layout.

21. A method for a Facilitator to assist an Entrepreneur in creating an Internet business, comprising the steps of:
- A) creating a Facilitator's web site on the Internet accessible to Entrepreneurs;
  - B) receiving information regarding an Entrepreneur that has accessed the Facilitator's web site;
  - C) storing the information regarding the Entrepreneur in a memory location accessible by the Facilitator's web site;
  - D) registering a requested available domain name having a label and a top-level domain in response to the Entrepreneur's request for the domain name on the Facilitator's web site using at least some of the stored information regarding the Entrepreneur;
  - E) providing hosting services on the Facilitator's web site for the Entrepreneur's web site at an Internet protocol address associated with the registered domain name using at least some of the stored information regarding the Entrepreneur;
  - F) assisting the Entrepreneur in trademarking the domain name or the label with the United States Patent and Trademark Office from the Facilitator's web site using at least some of the stored information regarding the Entrepreneur; and
  - G) assisting the Entrepreneur in copyrighting at least some of the content of the Entrepreneur's web site from the Facilitator's web site with the United States Copyright Office using at least some of the stored information regarding the Entrepreneur.

**IX. Evidence Appendix**

None



**X. Related Proceedings Appendix**

None